

## **REMARKS**

With the foregoing amendment claims 1-25 are pending in the application. Claims 1, 9, and 15 are independent. No new matter has been added by the amendments. Applicants respectfully request reconsideration of the present application.

### **I. Prior Art Rejections**

Claims 1-3 and 5-19 stand rejected under 35 U.S.C. 102(e) as being anticipated by Rayner (US 6,449,540), and claim 4 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Rayner in view of Friedman (US 5,815,316).

#### **A. Independent Claim 1**

Claim 1, as amended, is not anticipated by Rayner because Rayner does not disclose all of the features of claim 1. For example, at the least, Rayner does not disclose “a two-stage shutter button ..., wherein ... in response to the user of the image capturing device partially depressing the two-stage shutter button, said processor performs a lens focusing and/or flash measurement,” as is recited in claim 1, as amended (emphasis added).

Rayner discloses an event recorder 10 having a CPU 74 and a buffer memory 78. The event recorder continually stores an audio signal and a video signal in the buffer. According to Rayner, “CPU 74 copies data from buffer memory 78 to a more permanent non-volatile memory, such as a flash card, permanent digital memory or persistent memory 100, upon detection of a trigger signal.” In one embodiment, the trigger signal is created in response to the user activating a “panic or trigger button 110.” Panic button 110 is not a two-stage shutter button, rather, it is merely a one-stage button because partially depressing panic button 110 has no affect on anything. Moreover, nowhere does Rayner disclose that CPU 74 performs a lens focusing and/or flash measurement in response to the user partially depressing panic button 110. Thus, Rayner does not anticipate claim 1.

#### **B. Dependent Claims 3-8**

Claims 2-8 depend from claim 1. Thus, claims 2-8 are patentable for at least the same reason give above with respect to claim 1.

#### **C. Independent Claim 9**

Claim 9, as amended, is not anticipated by Rayner because Rayner does not disclose all of the features of claim 9. For example, at the least, Rayner does not disclose “activating the audio capture mode in response to a user of the image capturing device depressing the shutter button,” as is recited in claim 9, as amended (emphasis added).

As discussed above, Rayner discloses a panic button 110. When panic button 110 is depressed a trigger signal is created. In response to the trigger signal, the CPU 74 simply copies audio and video data from buffer memory 78 to a more permanent non-volatile memory. Accordingly, Rayner does not disclose the step of activating the audio capture mode in response to the user depressing the panic button because, in the system disclosed in Rayner, the event recorder 10 is already in the audio capture mode prior to the user depressing the panic button. If this were not the case, then there would be no audio data in buffer memory 78 at the time user activated the panic button 110, which would defeat the entire purpose of the event recorder. Accordingly, it is clear Rayner discloses that the event recorder 10 is placed in an audio capture mode prior to the user depressing the panic button 110. Thus, in the system disclosed in Rayner, the audio capture mode is not activated in response to the use depressing the panic button 110, rather the audio capture mode is activated in response to some other event. Hence, Rayner does not disclose all of the features of claim 9. The rejection of claim 9 should, therefore, be withdrawn.

D. Dependent Claims 10-14

Claims 10-14 depend from claim 9. Thus, claims 10-14 are patentable for at least the same reason give above with respect to claim 9.

E. Independent Claim 15

Claim 15, as amended, is not anticipated by Rayner because Rayner does not disclose all of the features of claim 15. For example, at the least, Rayner does not disclose “activating the audio capture mode in response to a user of the image capturing device exposing the lens by moving a lens cover that was covering the lens,” as is recited in claim 15, as amended (emphasis added).

In commenting on original claim 4, the Examiner acknowledges that Rayner does not disclose this feature. *See Office Action, page. 4* (“Rayner does not explicitly disclose any audio buffer receives said audio signal when a lens cover is open.”). However, the

Examiner contends that Friedman makes up for the deficient teachings of Rayner. Applicant respectfully disagrees.

The Examiner states, "Friedman et al teaches in FIG. 3, using a lens cap 31 where when the cap is open and lens 22 is exposed, the battery 30 provides power to the viewer." The Examiner then concludes, "it would have been obvious ... to modify the lens caps of cameras 62 or 65 of Rayner so that when one of the cap [sic] is open, the system is activated and starts recording ...." The problem with the Examiner's reasoning is that the cameras 62 and 65 of Rayner do not have any lens caps. Thus, in the Rayner system, there are no lens caps to modify. Accordingly, it would not be obvious to modify the lens caps of cameras 62 or 65 because neither camera 62 nor camera 65 has a lens cap. Applicant, therefore, respectfully submits that claim 15 is patentable over the art of record.

**F. Dependent Claims 16-19**

Claims 16-19 depend from claim 15. Thus, claims 16-19 are patentable for at least the same reason give above with respect to claim 15.

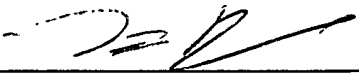
**II. New Claims**

New claims 20-25 are added. Each of these claims depends from one of claims 1, 9 or 15. Accordingly, each of claims 20-25 is patentable for at least the reasons give above with respect to the independent claim from which the claim depends.

**CONCLUSION**

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections, and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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